

REMARKS/ARGUMENTS

This is a Response to the Office Action mailed July 12, 2005, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire October 12, 2005. Claims 1-15 and 35-51 were withdrawn by the Applicant in his September 14, 2004, Response to the Restriction Requirement of August 12, 2004. Claim 16 was amended by the Applicant in his March 30, 2005, Response to the Office Action of November 30, 2004. The Director is authorized to charge any additional fees due by way of this Response, or credit any overpayment, to our Deposit Account No. 19-1090. Claims 16-34 remain pending.

1. Information Disclosure Statement

As noted in Applicant's Amendment of March 30, 2005, the AP and the AQ references cited in the Supplemental Information Disclosure Statement dated November 8, 2002, have not been acknowledged. Applicant respectfully requests that the Examiner provide acknowledgement of said references. For the convenience of the Examiner, Applicant encloses herewith a copy of the Supplemental Information Disclosure Statement of November 8, 2002.

2. Rejections Under 35 U.S.C. § 103(a)

In the Office Action, at paragraph 2, claims 16-34 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Rey et al.* (U.S. Patent 3,823,358), hereinafter *Rey*, in view of *Miller et al.* (U.S. Patent 5,465,011), hereinafter *Miller*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 16

Applicant respectfully submits that claim 16 is allowable for at least the reason that the proposed combination of *Rey* in view of *Miller* does not disclose, teach, or suggest at

least the feature of “a regulating circuit for regulating current through the series pass element in response *to a greater of a battery charging current error, a battery voltage error and a stack current error*” as recited in claim 16 (emphasis added).

As acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least a “regulating circuit for regulating current through the series pass element in response to a greater of a battery charging current error, a battery voltage error and a stack current error.” *Rey* is apparently limited to, at most, a system wherein “an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell” (Abstract). Thus, *Rey* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

Miller also fails to disclose, teach or suggest at least a “regulating circuit for regulating current through the series pass element in response to a greater of a battery charging current error, a battery voltage error and a stack current error.” *Miller* teaches, at most, that “CPU 14 controls the operation of UPS device 1 generally as represented by the flow chart of FIG. 2” (Col. 7, lines 22-23 and Fig. 2). Nowhere is there any disclosure that the *Miller* CPU 14 regulates any type of current based upon a greater of (1) a battery charging current error, (2) a battery voltage error and (3) a stack current error. Furthermore, *Miller* does not disclose any type of fuel cell stack whatsoever. Accordingly, *Miller* cannot possibly disclose any type of a stack current error. Thus, *Miller* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

If *Rey* (which fails to disclose, teach, or suggest using at least a “regulating circuit for regulating current through the series pass element in response to a greater of a battery charging current error, a battery voltage error and a stack current error” as recited in claim 16) and *Miller* (which also fails to disclose, teach, or suggest using at least a “regulating circuit for regulating current through the series pass element in response to a greater of a battery charging current error, a battery voltage error and a stack current error” as recited in claim 16) are considered in combination, the above recited features of claim 16 are not disclosed, taught or suggested in the proposed combination of *Rey* in view of *Miller*.

Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of “a regulating circuit for regulating current through the series pass element in response *to a greater of a battery charging current error, a battery voltage error and a stack current error*” as recited in claim 16 (emphasis added). Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claim 16 is not obvious under proposed combination of *Rey* in view of *Miller* and the rejection should be withdrawn.

Furthermore, the Office Action fails to even allege that the proposed combination of *Rey* in view of *Miller* discloses, teaches or suggests anywhere any type of regulating circuit that regulates current based upon a greater of (1) a battery charging current error, (2) a battery voltage error and (3) a stack current error. Therefore, the rejection itself is legally insufficient to reject claim 16. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. ... It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” Accordingly, if the rejection is maintained, Applicant respectfully requests that the next Office Action specifically identify locations in *Rey* or *Miller* where a regulating circuit that regulates current based upon a greater of (1) a battery charging current error, (2) a battery voltage error and (3) a stack current error is disclosed.

Additionally, since the basis of the rejection of claim 16 was not articulated in this Office Action, the next Office Action cannot properly be made a final rejection. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. ... It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” That is, Applicant must have at least one opportunity to fairly respond to a rejection under 35 U.S.C. §103 as allegedly being unpatentable by a proposed combination of *Rey* in view of *Miller*, which includes the right as a matter of law to amend claim 16 to overcome a rejection based upon a proposed combination of *Rey* in view of *Miller*. Thus, since the Applicant has not had the opportunity to respond to a specific rejection of

claim 16, the Applicant should have at least one opportunity to respond to a specific rejection of claim 16, and have at least one opportunity to amend claim 16 to overcome cited art, in the next Office Action.

b. Claims 17-19

Because independent claim 16 is allowable over the cited art of record, dependent claims 17-19 (which depend from independent claim 16) are allowable as a matter of law for at least the reason that the dependent claims 17-19 contain all features/elements of independent claim 16. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

Furthermore, with respect to claim 17, and as acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least “a battery charging current error integrator,” “a battery voltage error integrator” or “a stack current error integrator” as recited in claim 17. As noted above, *Rey* is apparently limited to, at most, a system wherein “an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell” (Abstract). Thus, *Rey* fails to disclose, teach or suggest the above recited features of claim 17. *Miller* also fails to disclose, teach or suggest at least using “a battery charging current error integrator,” “a battery voltage error integrator” or “a stack current error integrator.” Nowhere in *Miller* is there any type of battery charging current error integrator. Nowhere in *Miller* is there any type of battery voltage error integrator. And finally, nowhere in *Miller* is there any type of stack current error integrator. There is not even any type of fuel cell having a stack current in *Miller*, so there is no stack current error to integrate. Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of “a battery charging current error integrator,” “a battery voltage error integrator” or “a stack current error integrator” as recited in claim 17. Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claim 17 is not obvious under proposed combination of *Rey* in view of *Miller*, and the rejection should be withdrawn.

Furthermore, with respect to claim 18, the Office Action fails to even allege that the proposed combination renders claim 18 obvious. That is, the Office Action fails to allege

that either *Rey* or *Miller* disclose, teach or suggest anywhere any type of “a level shifter coupled to receive the greater of the battery charging current error, the battery voltage error and the stack current error” or “a charge pump.” Therefore, the rejection itself is legally insufficient to reject claim 18. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. … It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” Accordingly, if the rejection is maintained, Applicant respectfully requests that the next Office Action specifically identify locations in *Rey* or *Miller* where a level shifter coupled to receive the greater of the battery charging current error, the battery voltage error and the stack current error or a charge pump are disclosed, and where in *Rey* or *Miller* a battery charging current error integrator, a battery voltage error integrator and a stack current error integrator are disclosed.

Additionally, since the basis of the rejection of claim 18 was not even articulated in this Office Action, the next Office Action cannot properly be made a final rejection. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. … It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” That is, Applicant must have at least one opportunity to fairly respond to a rejection under 35 U.S.C. §103 as allegedly being unpatentable by a proposed combination of *Rey* in view of *Miller*, which includes the right as a matter of law to amend claim 18 to overcome a rejection based upon a proposed combination of *Rey* in view of *Miller*. Thus, since the Applicant has not had the opportunity to respond to a specific rejection of claim 18, the Applicant should have at least one opportunity to respond to a specific rejection of claim 18, and have at least one opportunity to amend claim 18 to overcome cited art, in the next Office Action.

c. Claims 20 and 30

Applicant respectfully submits that claims 20 and 30 are allowable for at least the reason that the proposed combination of *Rey* in view of *Miller* does not disclose, teach, or

suggest at least the feature of a “regulating circuit coupled to the series pass element to regulate a current through the series pass element in proportion to *at least a greater of a difference between a battery charging current and a battery charging current limit, a difference between a battery voltage and a battery voltage limit, and a difference between a stack current and a stack current limit*” as recited in claim 20 (emphasis added), or at least the feature of a “means for determining a greater of a difference between a battery charging current and a battery charging current limit, a difference between a battery voltage and a battery voltage limit, and a difference between a stack current and a stack current limit” as recited in claim 30.

As acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least a “regulating circuit coupled to the series pass element to regulate a current through the series pass element in proportion to at least a greater of a difference between a battery charging current and a battery charging current limit, a difference between a battery voltage and a battery voltage limit, and a difference between a stack current and a stack current limit.” *Rey* is apparently limited to, at most, a system wherein “an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell” (Abstract). Thus, *Rey* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

Miller also fails to disclose, teach or suggest at least a “regulating circuit coupled to the series pass element to regulate a current through the series pass element in proportion to at least a greater of a difference between a battery charging current and a battery charging current limit, a difference between a battery voltage and a battery voltage limit, and a difference between a stack current and a stack current limit.” *Miller* teaches, at most, that “CPU 14 controls the operation of UPS device 1 generally as represented by the flow chart of FIG. 2” (Col. 7, lines 22-23 and Fig. 2). Nowhere is there any disclosure that the *Miller* CPU 14 regulates any type of regulating circuit that regulates current based upon a greater of (1) a difference between a battery charging current and a battery charging current limit, (2) a difference between a battery voltage and a battery voltage limit and (3) a difference between a stack current and a stack current limit. Furthermore, *Miller* does not disclose any type of fuel cell stack whatsoever, and accordingly, *Miller* cannot possibly disclose any type of stack current or stack current limit. Thus, *Miller* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

If *Rey* and *Miller* are considered in combination, the above recited features of claims 20 and 30 are not disclosed, taught or suggested in the proposed combination of *Rey* in view of *Miller*. Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of a “regulating circuit coupled to the series pass element to regulate a current through the series pass element in proportion to at least a greater of a difference between a battery charging current and a battery charging current limit, a difference between a battery voltage and a battery voltage limit, and a difference between a stack current and a stack current limit” as recited in claim 20, or at least the claimed limitations of a “means for determining a greater of a difference between a battery charging current and a battery charging current limit, a difference between a battery voltage and a battery voltage limit, and a difference between a stack current and a stack current limit” as recited in claim 30. Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claims 20 and 30 are not obvious under proposed combination of *Rey* in view of *Miller*, and the rejection should be withdrawn.

Furthermore, the Office Action fails to even allege that the proposed combination renders claims 20 or 30 obvious. That is, the Office Action fails to allege that either *Rey* or *Miller* disclose, teach or suggest anywhere any type of regulating circuit that regulates current based upon, or a means for determining, a greater of (1) a difference between a battery charging current and a battery charging current limit, (2) a difference between a battery voltage and a battery voltage limit and (3) a difference between a stack current and a stack current limit. Therefore, the rejection itself is legally insufficient to reject claims 20 or 30. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. ... It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” Accordingly, if the rejection is maintained, Applicant respectfully requests that the next Office Action specifically identify locations in *Rey* or *Miller* where a regulating circuit that regulates current based upon, or a means for determining, a greater of (1) a difference between a battery charging current and a battery charging current

limit, (2) a difference between a battery voltage and a battery voltage limit and (3) a difference between a stack current and a stack current limit are disclosed.

Additionally, since the basis of the rejection of claims 20 or 30 was not articulated in this Office Action, the next Office Action cannot properly be made a final rejection. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. . . . It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” That is, Applicant must have at least one opportunity to fairly respond to a rejection under 35 U.S.C. §103 as allegedly being unpatentable by a proposed combination of *Rey* in view of *Miller*, which includes the right as a matter of law to amend claims 20 and/or 30 to overcome a rejection based upon a proposed combination of *Rey* in view of *Miller*. Thus, since the Applicant has not had the opportunity to respond to a specific rejection of claims 20 and/or 30, the Applicant should have at least one opportunity to respond to a specific rejection of claims 20 and/or 30, and have at least one opportunity to amend claims 20 and/or 30 to overcome cited art, in the next Office Action.

d. Claims 21-24 and 31

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-24 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-24 contain all features/elements of independent claim 20. Similarly, because independent claim 30 is allowable over the cited art of record, dependent claim 31 (which depends from independent claim 30) is allowable as a matter of law for at least the reason that the dependent claim 31 contains all features/elements of independent claim 30. Accordingly, the rejection to these claims should be withdrawn.

Furthermore, with respect to claim 22, and as acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least “a battery current integrator,” “a battery voltage integrator” or “a stack current integrator” as recited in claim 22. As noted above, *Rey* is apparently limited to, at most, a system wherein “an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell” (Abstract). Thus, *Rey* fails

to disclose, teach or suggest the above recited features of claim 22. *Miller* also fails to disclose, teach or suggest at least using at least “a battery current integrator,” “a battery voltage integrator” or “a stack current integrator.” Nowhere in *Miller* is there any type of battery current integrator. Nowhere in *Miller* is there any type of battery voltage integrator. And finally, nowhere in *Miller* is there any type of stack current integrator. Furthermore, *Miller* does not disclose any type of fuel cell stack whatsoever, and accordingly, *Miller* cannot possibly disclose any type of stack current that is integrated. Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of “a battery current integrator,” “a battery voltage integrator” or “a stack current integrator.” as recited in claim 22. Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claim 22 is not obvious under proposed combination of *Rey* in view of *Miller* and the rejection should be withdrawn.

Furthermore, with respect to claim 23, the Office Action fails to even allege that the proposed combination renders claim 23 obvious. There is no allegation that the features of a “level shifter coupled to the OR circuit to receive the greater of the value on each of the outputs” or “a charge pump” are disclosed in either *Rey* or *Miller*. Therefore, the rejection itself is legally insufficient to reject claim 23. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. . . . It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” Accordingly, if the rejection is maintained, Applicant respectfully requests that the next Office Action specifically identify locations in *Rey* or *Miller* where a level shifter coupled to the OR circuit to receive the greater of the value on each of the outputs, or a charge pump, are disclosed.

Additionally, since the basis of the rejection of claim 23 was not even articulated in this Office Action, the next Office Action cannot properly be made a final rejection. MPEP section 706.02(j) indicates that “it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. . . . It is important that the written record clearly explain the rationale for decisions made during prosecution of the application.” That is, Applicant must have at least one

opportunity to fairly respond to a rejection under 35 U.S.C. §103 as allegedly being unpatentable by a proposed combination of *Rey* in view of *Miller*, which includes the right as a matter of law to amend claim 23 to overcome a rejection based upon a proposed combination of *Rey* in view of *Miller*. Thus, since the Applicant has not had the opportunity to respond to a specific rejection of claim 23, the Applicant should have at least one opportunity to respond to a specific rejection of claim 23, and have at least one opportunity to amend claim 23 to overcome cited art, in the next Office Action.

e. Claim 25

Applicant respectfully submits that claim 25 is allowable for at least the reason that the proposed combination of *Rey* in view of *Miller* does not disclose, teach, or suggest at least the feature of “a battery charging current error integrator,” “a battery voltage error integrator,” “a stack current error integrator,” or “a series pass element having a pair of terminals for selectively providing a current path and a control terminal coupled to the OR circuit for regulating current through the current path in proportion to *a greater of the battery current error signal, the battery voltage error signal and the stack current error signal*” as recited in claim 25 (emphasis added).

As acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least an “OR circuit for regulating current through the current path in proportion to a greater of the battery current error signal, the battery voltage error signal and the stack current error signal.” *Rey* is apparently limited to, at most, a system wherein “an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell” (Abstract). Thus, *Rey* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

Miller also fails to disclose, teach or suggest at least an “OR circuit for regulating current through the current path in proportion to a greater of the battery current error signal, the battery voltage error signal and the stack current error signal.” *Miller* teaches, at most, that “CPU 14 controls the operation of UPS device 1 generally as represented by the flow chart of FIG. 2” (Col. 7, lines 22-23 and Fig. 2). Nowhere is there any disclosure that the *Miller* CPU 14

regulates any type of OR circuit that regulates current based upon a greater of (1) a battery current error signal, (2) a battery voltage error signal and (3) a stack current error signal. Furthermore, *Miller* does not disclose any type of fuel cell stack whatsoever, and accordingly, *Miller* cannot possibly disclose any type of stack current that is used to define a stack current error signal. Thus, *Miller* fails to disclose, teach or suggest every element of the Applicant's claimed invention.

If *Rey* and *Miller* are considered in combination, the above recited features of claim 25 are not disclosed, taught or suggested in the proposed combination of *Rey* in view of *Miller*. Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of "a battery charging current error integrator," "a battery voltage error integrator," "a stack current error integrator," or "a series pass element having a pair of terminals for selectively providing a current path and a control terminal coupled to the OR circuit for regulating current through the current path in proportion to a greater of the battery current error signal, the battery voltage error signal and the stack current error signal" as recited in claim 25. Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claim 25 is not obvious under proposed combination of *Rey* in view of *Miller* and the rejection should be withdrawn.

f. Claims 26-29

Because independent claim 25 is allowable over the cited art of record, dependent claims 26-29 (which depend from independent claim 25) are allowable as a matter of law for at least the reason that the dependent claims 26-29 contain all features/elements of independent claim 25. Accordingly, the rejection to these claims should be withdrawn.

Furthermore, with respect to claim 29, and as acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least "a temperature compensation circuit coupled to the battery temperature sensor to produce a battery voltage limit that is compensated for temperature" as recited in claim 29. As noted above, *Rey* is apparently limited to, at most, a system wherein "an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell" (Abstract). Thus, *Rey* fails to disclose, teach or suggest the above-

recited features of claim 29. At most, *Miller* discloses that “buffer amplifiers 205 and 207 convert the resistance changes of temperature sensors 210, 212 respectively to voltages proportional to temperature. The ambient temperature surrounding the UPS device 1 is inputted to CPU 14 at pin P0.4 through amplifier 205. The temperature of the heatsink on which the output and other power transistors are mounted is inputted to CPU 14 at pin P0.7 through amplifier 207.” (Col. 14, line 64, to Col. 15, line 1.) *Miller* further is limited to disclosing that “step S11 adds protection for the output driver circuits by computing the temperature rises of the various output semiconductors mounted on a heat sink typically required in power conversion equipment. If any temperature rises are excessive or place the output semiconductors outside of their safe operating region, CPU 14 would cause an orderly shutdown of UPS device 1. If temperature rises are normal and within limits, Step 1 is repeated, and CPU 14 switches to the control mode, starting with Step S12.” (Col. 7, lines 45-54.) Nowhere in *Miller* is there any type of battery temperature sensor as alleged in the Office Action at page 3. Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of “a temperature compensation circuit coupled to the battery temperature sensor to produce a battery voltage limit that is compensated for temperature” as recited in claim 29. Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claim 29 is not obvious under proposed combination of *Rey* in view of *Miller*, and the rejection should be withdrawn.

g. Claim 32

Applicant respectfully submits that claim 32 is allowable for at least the reason that the proposed combination of *Rey* in view of *Miller* does not disclose, teach, or suggest at least the features of a “means for determining a *difference between a battery charging current and a battery charging current limit*; means for determining a difference between a *battery voltage and a battery voltage limit*; and means for determining a difference between a *stack current and a stack current limit*; and series pass regulating means for regulating a flow of stack current through a blocking diode in response to *the greater of the determined differences*” as recited in claim 32 (emphasis added).

As acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least the above-recited features of claim 32. *Rey* is apparently limited to, at most, a system wherein “an auxiliary storage battery or other DC rechargeable power source is connected in parallel with a fuel cell” (Abstract). Thus, *Rey* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

Miller also fails to disclose, teach or suggest at least a means for determining a difference between a battery charging current and a battery charging current limit; means for determining a difference between a battery voltage and a battery voltage limit; and means for determining a difference between a stack current and a stack current limit; and series pass regulating means for regulating a flow of stack current through a blocking diode in response to the greater of the determined differences. *Miller* teaches, at most, that “CPU 14 controls the operation of UPS device 1 generally as represented by the flow chart of FIG. 2” (Col. 7, lines 22-23, and Fig. 2). Nowhere is there any disclosure that the *Miller* CPU 14 regulates any type of circuit that is based upon a greater of the determined differences between a battery charging current and a battery charging current limit; a difference between a battery voltage and a battery voltage limit; and a difference between a stack current and a stack current limit. Furthermore, *Miller* does not disclose any type of fuel cell stack whatsoever, and accordingly, *Miller* cannot possibly disclose any type of stack current or a stack current limit. Thus, *Miller* fails to disclose, teach or suggest every element of the Applicant’s claimed invention.

If *Rey* and *Miller* are considered in combination, the above recited features of claim 32 are not disclosed, taught or suggested in the proposed combination of *Rey* in view of *Miller*. Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations a “means for determining a difference between a battery charging current and a battery charging current limit; means for determining a difference between a battery voltage and a battery voltage limit; and means for determining a difference between a stack current and a stack current limit; and series pass regulating means for regulating a flow of stack current through a blocking diode in response to the greater of the determined differences” as recited in claim 32 (emphasis added). Therefore, a *prima facie* case establishing an obviousness

rejection by *Rey* in view of *Miller* has not been made. Thus, claim 32 is not obvious under proposed combination of *Rey* in view of *Miller* and the rejection should be withdrawn.

h. Claims 33-34

Because independent claim 32 is allowable over the cited art of record, dependent claims 33-34 (which depend from independent claim 32) are allowable as a matter of law for at least the reason that the dependent claims 33-34 contain all features/elements of independent claim 32. Accordingly, the rejection to these claims should be withdrawn.

Furthermore, with respect to claim 34, and as acknowledged in the Office Action at page 2, *Rey* does not disclose, teach, or suggest using at least a “means for selecting the greater of the determined differences” as recited in claim 34. Similarly, *Miller* fails to disclose, teach or suggest any type of “means for selecting the greater of the determined differences.” Accordingly, the proposed combination of *Rey* in view of *Miller* does not teach at least the claimed limitations of a “means for selecting the greater of the determined differences” as recited in claim 34. Therefore, a *prima facie* case establishing an obviousness rejection by *Rey* in view of *Miller* has not been made. Thus, claim 34 is not obvious under proposed combination of *Rey* in view of *Miller* and the rejection should be withdrawn.

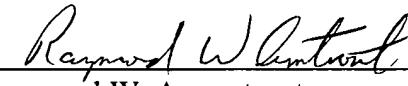
3. Conclusion

In light of the above remarks, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that all pending claims 16-34 are allowable. Applicant, therefore, respectfully requests that the Examiner reconsider this application and timely allow all pending claims. The Examiner is encouraged to contact Mr. Armentrout by telephone to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the

Application No. 10/017,462
Reply to Office Action dated July 12, 2005

claims, she is further encouraged to contact Mr. Armentrout by telephone to expediently correct such informalities.

Respectfully submitted,
Seed Intellectual Property Law Group PLLC



Raymond W. Armentrout
Registration No. 45,866

RWA:jr

Enclosure:

Postcard
Copy of the Supplemental Disclosure Statement dated November 8, 2002

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
(206) 622-4900
Fax: (206) 682-6031

130109.442 / 675930v1